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BEFORE THE ARIZONA CORPORATION COMMISSION

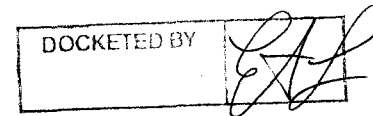
Arizona Corporation Commission

COMMISSIONERS

DOCKETED

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

APR 23 2015



IN THE MATTER OF THE APPLICATION OF
ZONE TELECOM, LLC FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
RESOLD LOCAL EXCHANGE
TELECOMMUNICATION SERVICES.

DOCKET NO. T-03924A-13-0007

DECISION NO. **75027**

ORDER

Open Meeting
April 14 and 15, 2015
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On January 10, 2013, Zone Telecom, LLC ("Zone") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold local exchange and resold Voice over Internet Protocol ("VoIP") telecommunication services within the State of Arizona. Zone's application also requests a determination that its proposed services are competitive in Arizona.

2. On November 3, 2014, Zone filed an amendment to its application that notified the Commission that Zone had changed its name to ANPI Business, LLC (herein after "ANPI Business" or "Company").

3. On December 24, 2014, ANPI Business filed a Notice of Filing Affidavit of Publication stating that notice of the amended application had been published in the *Arizona Republic*, a newspaper of general circulation in the State of Arizona.

4. On February 4, 2015, the Company filed replacement pages to its proposed tariffs.

1 5. On March 5, 2015, the Commission's Utilities Division's ("Staff"), filed a Staff
2 Report recommending approval of ANPI Business' amended application, subject to certain
3 conditions.

4 6. ANPI Business is a foreign limited liability company organized under the laws of
5 Delaware, with its headquarters in Frisco, Texas.¹

6 7. ANZ Communications, LLC ("ANZ") is the parent company for ANPI Business and
7 ANPI, LLC.² ANPI Business provides wholesale interexchange services in nearly every state and is
8 also the managing member and 25 percent owner of Common Point, LLC, a wholesale provider of
9 tandem access and switched access services.³

10 8. ANPI Business is currently authorized and providing resold long distance
11 telecommunication services in Arizona.⁴

12 9. Notice of ANPI Business' amended application was given in accordance with the law.

13 10. Staff recommends approval of ANPI Business' amended application for a CC&N to
14 provide intrastate telecommunication services in Arizona, subject to the following conditions:

- 15 a. ANPI Business complies with all Commission Rules, Orders and other
16 requirements relevant to the provision of intrastate telecommunication
services;
- 17 b. ANPI Business abides by the quality of service standards that were approved
18 by the Commission for Qwest in Docket No. T-01051B-13-0199;
- 19 c. ANPI Business be prohibited from barring access to alternative local exchange
20 service providers who wish to serve areas where the Company is the only
provider of local exchange service facilities;
- 21 d. ANPI Business be required to notify the Commission immediately upon
changes to the Company's name, address or telephone number;
- 22 e. ANPI Business cooperate with Commission investigations including, but not
23 limited to customer complaints;
- 24 f. The rates proposed by this filing are for competitive services. In general, rates
25 for competitive services are not set according to rate of return regulation. The
Company indicated that its fair value rate base is zero. Staff has reviewed the

26 ¹ Amended Application.

27 ² *Id.*

28 ³ *Id.*

⁴ In Decision No. 63523 (March 30, 2001), the Commission granted Zone, now known as, ANPI Business, authorization to provide resold long distance services in Arizona.

rates to be charged by the Company and believes they are just and reasonable as they are comparable to other competitive local carriers and local incumbent carriers offering service in Arizona and comparable to the rates ANPI Business charges in other jurisdictions. The rate to be ultimately charged by the Company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, the fair value information provided was not given substantial weight in this analysis;

- g. ANPI Business offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;
- h. ANPI Business offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated; and
- i. The Commission authorize ANPI Business to discount its rates and charges to the marginal cost of providing the services.

11. Staff further recommends that ANPI Business comply with the following items and if the Company fails to do so, that the Company's CC&N shall be considered null and void after due process:

- (a) ANPI Business shall docket conforming tariff pages for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days prior to providing service to its first customer, whichever comes first. The tariffs submitted shall coincide with the application;
- (b) ANPI Business shall notify the Commission through a compliance filing within 30 days of the commencement of service to its first end-user customer; and
- (c) ANPI Business shall abide by the Commission adopted rules that address Universal Service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal Service Fund ("AUSF"). ANPI Business will make the necessary monthly payments required by A.A.C. R14-2-1204(B).

12. Staff also recommends that the Company's proposed services be classified as competitive given the availability of alternatives, the Company's lack of market power, and the inability for the Company to adversely affect the local exchange markets.

Technical Capability

13. ANPI Business is currently offering resold local exchange telecommunication services in thirty-two (32) states/jurisdictions.⁵ A review of twelve of the thirty-two states/jurisdictions where

⁵ ANPI Business is authorized to provide resold local exchange services in the following states: Alabama, Alaska, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas,

1 ANPI Business is certificated or registered showed that no consumer complaints were filed against
2 the Company.⁶

3 14. The Company's senior management team has an average of 18 years' experience
4 in the telecommunication industry.⁷

5 15. ANPI Business intends to provide its proposed resold local exchange services
6 primarily to small and medium business customers in Arizona and not to residential customers.
7 ANPI Business will provide its services in Arizona by reselling the services of CenturyLink,
8 Version, and Level 3, Broadvox, Neutral Tandem, Hypercube, and AT&T.⁸

9 16. Staff believes the Company possesses the technical capabilities to provide its
10 proposed services in Arizona.

11 **Financial Capabilities**

12 17. ANPI Business provided unaudited financial statements for the 12 months
13 ending December 31, 2012, listing total assets of \$27,514,870; total equity of \$19,199,533; and
14 a net income of \$2,468,568.⁹ For the 12 months ending December 31, 2013, the Company listed
15 total assets of \$12,684,549, total equity of \$10,491,664, and a net income of \$1,064,916.¹⁰

16 18. The Company's amended application states that ANPI Business will rely solely
17 on its own finances to fund its operations in Arizona.¹¹

18 **Rates and Charges**

19 19. ANPI Business docketed proposed tariffs showing the Company's proposed rates
20 and charges as well as a comparison of its rates to other incumbent local exchange carriers
21 ("ILECs") operating in Arizona. Staff believes that ANPI Business will have to compete with
22 other ILECs and various competitive local exchange carriers ("CLECs") in Arizona in order to
23

24 Massachusetts, Maryland, Maine, North Carolina, North Dakota, Nebraska, New Hampshire, Nevada, New York,
25 Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Washington,
26 Wisconsin, and Wyoming.

26 ⁶ Staff Report at 1.

26 ⁷ *Id.* at 2.

27 ⁸ *Id.*

27 ⁹ *Id.*

27 ¹⁰ *Id.*

28 ¹¹ Amended Application.

1 gain new customers.¹² Staff states it does not believe ANPI Business will be able to exert
 2 market power given its status and therefore the competitive process will yield rates that are just
 3 and reasonable.¹³

4 20. Pursuant to A.A.C. R14-2-1109, both the actual rate and the maximum rate must
 5 be listed for each service ANPI Business proposes to offer and those rates may not be less than
 6 the Company's total service long-run incremental cost of providing that service.¹⁴

7 21. ANPI Business states that its projected fair value rate base ("FVRB") will be zero
 8 for the first 12 months of operation in Arizona.¹⁵ Staff believes the Company's FVRB is too
 9 small to be useful in a fair value analysis, the FVRB would not be useful in setting rates, and
 10 therefore the Company's FVRB should not be given substantial weight in this analysis. Staff
 11 reviewed the proposed rates submitted by the Company and believes they are comparable to the
 12 rates charge by CLECs and ILECs operating in Arizona. Therefore, Staff states that in general,
 13 rates for competitive services are not set according to a rate of return regulation, but are heavily
 14 influenced by the market. Staff recommends that while it considered the FVRB information,
 15 that it not be given substantial weight in setting rates for ANPI Business.

16 **Local Exchange Carrier Specific Issues**

17 22. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, ANPI Business
 18 must make number portability available to facilitate the ability of customers to switch between
 19 authorized local carriers within a given wire center without changing their telephone number
 20 and without impairment to quality, functionality, reliability, or convenience of use.

21 23. Pursuant to A.A.C. R14-2-1204(A), all telecommunication service providers that
 22 interconnect to the public switched telephone network shall provide funding for the AUSF.
 23 ANPI Business shall make payments to the AUSF described under A.A.C. R14-2-1204(B).

24 24. In Commission Decision No. 74208 (December 3, 2013), the Commission
 25 approved quality of service standards for Qwest to insure customers received a satisfactory
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27 ¹² Staff Report at 3

¹³ *Id.*

¹⁴ *Id.* at 2.

28 ¹⁵ Amended Application at Attachment F.

1 level of service. In this matter, Staff believes ANPI Business should be ordered to abide by
2 those service standards.

3 25. In areas where the Company is the only local exchange service provider, Staff
4 recommends that ANPI Business be prohibited from barring access to alternative local
5 exchange service providers who wish to serve the area.

6 26. If the Company begins to provide local exchange service, ANPI Business will
7 provide all customers with 911 and E911 service where available, or will coordinate with
8 ILECs and emergency service providers to facilitate the service as set forth in A.A.C. R14-2-
9 1206 (6)(d) and the Federal Communications Commission, 47 CFR §§ 64.3001 and 64.3002.

10 27. Pursuant to prior Commission Decisions, ANPI Business may offer customer
11 local area signaling services such as Caller ID and Call Blocking, so long as the customer is
12 able to block or unblock each individual call at no additional cost.

13 28. ANPI Business must offer Last Call Return service, which will not allow the
14 return of calls to the telephone numbers that have the privacy indicator activated.

15 **Complaint Information**

16 29. ANPI Business states that none of the Company's officers, directors, partners, or
17 managers have been involved in any civil or criminal investigations, or had judgments entered
18 in any civil matter, or by any administrative or regulatory agency, or been convicted of any
19 criminal acts within the last ten (10) years.¹⁶

20 30. ANPI Business has not had an application for service denied in any state.¹⁷

21 31. The Commission's Consumer Services Section reported that no complaints,
22 inquires, or opinions had filed against ANPI Business from January 1, 2011 through December
23 1, 2014.¹⁸

24 32. The Company is in good standing with the Commission's Corporations
25 Division.¹⁹

26
27 ¹⁶ Amended Application.

28 ¹⁷ *Id.*

¹⁸ Staff Report at 4.

¹⁹ *Id.*

1 33. A review of the Federal Communication Commission's website revealed that no
2 complaints had been filed against the Company.²⁰

3 **Competitive Review**

4 34. ANPI Business' application requests that its proposed telecommunication
5 services in Arizona be classified as competitive.

6 35. Staff believes that the Company's proposed services should be classified as
7 competitive because ANPI Business will have to compete with CLECs and ILECs to gain
8 customers; there are alternative providers to the Company's proposed services; ILECs hold a
9 virtual monopoly in local exchange; that there are other wireless carriers and VoIP providers
10 that ANPI Business will have to compete with; and that ANPI Business will not have the ability
11 to adversely affect the local exchange market in Arizona.

12 36. Based on the above factors, Staff recommends that the Company's proposed
13 services should be classified as competitive.

14 37. Staff's recommendations are reasonable and should be adopted.

15 **CONCLUSIONS OF LAW**

16 1. ANPI Business is a public service corporation within the meaning of Article XV of the
17 Arizona Constitution, A.R.S. §§ 40-281 and 40-282.

18 2. The Commission has jurisdiction over ANPI Business and the subject matter of the
19 application.

20 3. Notice of the amended application was given in accordance with the law.

21 4. A.R.S. §40-282 allows a telecommunication company to file an application for a
22 CC&N to provide competitive telecommunication services.

23 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised
24 Statutes, it is in the public interest for ANPI Business to provide the resold local telecommunication
25 services as set forth in the amended application.

26 6. ANPI Business is a fit and proper entity to receive a CC&N authorizing it to provide
27

28 ²⁰ Staff Report at 4.

1 intrastate telecommunication services in Arizona, subject to Staff's recommendations as set forth
2 herein.

3 7. The Company's fair value rate base is not useful in determining just and reasonable
4 rates for the competitive services it proposes to provide to Arizona customers.

5 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it
6 is just and reasonable and in the public interest for ANPI Business to establish rates and charges that
7 are not less than the Company's total service long-run incremental costs of providing the competitive
8 services approved herein.

9 9. Pursuant to A.R.S. § 40-282, the application in this matter may be approved without a
10 hearing.

11 10. Staff's recommendations are reasonable and should be adopted.

12 **ORDER**

13 IT IS THEREFORE ORDERED that the application of ANPI Business, LLC for a Certificate
14 of Convenience and Necessity to provide resold local exchange telecommunication services in
15 Arizona, is hereby approved, subject to Staff's recommendations as more fully described in Findings
16 of Fact Nos. 10 and 11.

17 IT IS FURTHER ORDERED that ANPI Business, LLC's resold local exchange
18 telecommunication services are competitive in Arizona.

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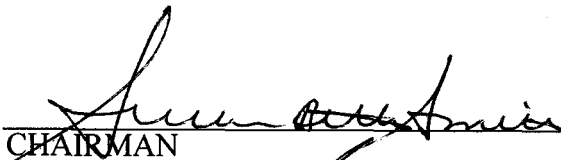
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1 IT IS FURTHER ORDERED that if ANPI Business, LLC fails to comply with the Staff
 2 recommendations described in Findings of Fact No. 11, the Certificate of Convenience and Necessity
 3 granted herein shall be considered null and void after due process.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
 7 
 8 CHAIRMAN

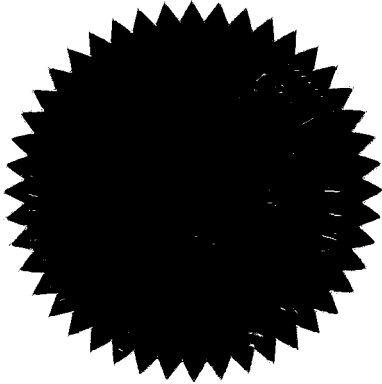
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COMMISSIONER

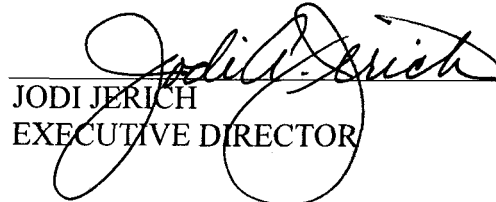
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13 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 14 Director of the Arizona Corporation Commission, have
 15 hereunto set my hand and caused the official seal of the
 16 Commission to be affixed at the Capitol, in the City of Phoenix,
 17 this 23rd day of April 2015.

18 
 19 JODI JERICH
 20 EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____
 23 YK/ru

1 SERVICE LIST FOR: ZONE TELECOM, LLC

2 DOCKET NO.: T-03924A-13-0007

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